

December 2, 2014

Senate Insurance Committee

SB 1140

- Good afternoon
- Thank you for the opportunity to make a few remarks in support of Senate Bill 1140.
- I am DVK, General Counsel for the Insurance Institute of Michigan, a statewide trade assn. rep P&C
- For purposes of SB 1140, this includes auto no-fault insurers representing approx. 75% of MI market.
- As you know, IIM has been very involved in the debate over broader no-fault reform. At the same time, , however, we look for other opportunities to address more narrowed issues which come up from time to time in the courts or otherwise. And SB 1140 attempts to address and clarify a few of these.
- First, SB 1140 amends Sec. 500.3113 of the insurance code to provide that those who are KNOWINGLY using a stolen vehicle at the time of a car accident and injury are NOT entitled to receive auto no-fault Personal Injury Protection – or PIP - benefits.
- The industry thought this issue was clear before the 2010 case of *Henry Ford Health Systems v Esurance* (COA Published Opinion June 8, 2010), but the Court of Appeals disagreed, and held that only the person who actually stole the car is precluded from benefits.
- Second, the bill amends the insurance code to provide clarity with respect to an existing exclusion called the “Named Excluded Driver,” and allowed by 500.3009(2). The Named Excluded Driver exclusion allows a couple or family to insure a car, and/or get a better rate, by excluding a driver in the household who is otherwise uninsurable or a very high risk. – i.e. has lost his/her driver’s license, or has a high number of points, etc.
- However, since 500.3113 does not similarly include a “named excluded driver” exclusion, the courts have declined to apply the exclusion to PIP coverage. More recently, the Courts have begun to treat these situations similarly to a stolen vehicle.
- We think it would be better to clarify the exclusion.
- Finally, SB 1140 addresses a narrow loophole involving non-Michigan residents travelling in Michigan in their non-Michigan vehicles. Currently, there are no Michigan No-Fault benefits for non-residents, in their non-Michigan vehicles, insured by an insurance company not licensed to do business in Michigan. But the Michigan Court of Appeals recently found in favor of benefits because a family did have a car parked back home in their garage in another state that was insured by a Michigan-licensed carrier.
- SB 1140 closes this loophole and would provide that the insurance had to be on the car they’re in, as opposed to any car they own.
- Thank you for your time.
- I’d be happy to take any questions